

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NO.3509 OF 2014

ORDER:

This Revision is filed challenging the order dated 16.09.2014 in E.P.No.50 of 2011 in O.S.No.240 of 2009 on the file of the Senior Civil Judge, Bhimavaram.

2. Petitioner herein is the judgment debtor in the above suit. The said suit was filed by the respondent against the petitioner for recovery of money and it was decreed by the Senior Civil Judge, Bhimavaram on 04.06.2010. Thereafter, E.P.No.50 of 2011 was filed for recovery of a sum of Rs.6,24,231/-.

3. A counter affidavit was filed to the E.P. by the petitioner stating that he retired as a Lecturer in KGRL Degree College, Bhimavaram and that he is receiving a pension of Rs.35,000/- per month. He also stated that he had suffered heart attack and underwent 4 Angio Plasty surgeries and got installed two stents in March 2010 after his retirement. He denied the allegations of the respondent that he received Rs.30,00,000/- towards retirement benefit and that he owns buildings, lands and fish tanks.

4. Before the Court below, the respondent examined P.Ws.1 and 2, while the petitioner examined R.Ws.1 and 2 and marked Exs.B1 to B4.

5. By order dated 16.09.2014, the Court below rejected the objections of the petitioner and allowed the E.P. It held that the petitioner had sufficient means to pay the decretal amount and was intentionally evading to satisfy the decree. It held that the petitioner had admitted as R.W.1 that he is getting Rs.35,000/- per month towards pension, that he owned land of Acs.6.00 and also a car and that they were sold away, but no evidence of such sale was adduced by him. It further referred to a fact that the petitioner is the son of an Ex.M.L.A. of Undi Constituency and that he is a rich person.

6. Challenging the same, this revision is filed.

7. Heard Sri Yaka Balasubrahmanyam, learned counsel for the petitioner and Sri N.Subba Rao, learned counsel for the respondent.

8. Although counsel for the petitioner contended that the petitioner is suffering from ill health and underwent four Angio Plasty surgeries and that he does not have means to satisfy the decree, I am unable to agree with the said submission. The petitioner himself as P.W.1 admitted that he retired as Head of Department in Zoology in KGRL College, Bhimavaram, in January 2010 and also stated that he received Rs.30,00,000/- towards retirement benefits. He also admitted that he got Acs.6.00 of land in a family partition and also a car. Although he stated that he sold away his land and car, there is no evidence of such sale adduced filed by the petitioner. Since according to the counsel for the petitioner, the petitioner had undergone four Angio Plasty surgeries, the petitioner must be a wealthy man, as those surgeries are expensive and are mostly performed in private hospitals. In fact, the petitioner has filed a medical certificate issued by the Care Hospital, Hyderabad dt. 06.02.2013. From these facts, it is clear that the petitioner has sufficient means to satisfy the decree amount but he is deliberately evading to do so.

9. It is not disputed that pursuant to order dt. 21.11.2014, passed in this CRP, petitioner has deposited 1/3rd of the E.P. amount.

10. Therefore, the Civil Revision Petition is dismissed granting time to the petitioner up to 05.11.2015 to deposit the balance E.P. amount to the credit of the E.P. In default of compliance with the same, the order passed by the Court below is liable to be enforced. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.S.RAMACHANDRA RAO, J)

5th October 2015

RRB